

OFFICIAL GAZETTE

GOVERNMENT OF GOA



EXTRAORDINARY No. 2

GOVERNMENT OF GOA

Department of Law and Judiciary

Legal Affairs Division

Notification

7/3/2004-LA

The Goa Medical Practitioners Act, 2004 (Goa Act 9 of 2004), which has been passed by the Legislative Assembly of Goa on 19-2-2004 and assented to by the Governor of Goa on 1-4-2004, is hereby published for general information of the public.

It is also directed that the said Act be circulated for comments to the Central Government by S. G. Marathe, Under Secretary (Drafting), Ministry of Health and Family Welfare, Government of India, Panaji, 5th April, 2004.

Given to 7/3/2004 A.D. at Panaji, the capital city of the State of Goa.

The Goa Medical Practitioners Act, 2004
(Goa Act 9 of 2004) [1-4-2004]

AN ACT
 To regulate medical practitioners and to provide for medical treatment only by qualified medical practitioners and to stop unauthorised practice and medical treatment.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:

CHAPTER - I

Preliminary

1. Short title, extent and commencement.— (1) This Act may be called the Goa Medical Practitioners Act, 2004.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) "appointed day" means the date on which the provisions of this Act shall come into force;

(b) "appellate authority" means any person or persons or authority appointed by the Government to perform the functions of appellate authority under this Act, and different persons or authorities may be appointed to perform different functions;

(c) "Central Government" means the Government of India;

(d) "competent authority" means any person or persons or authority appointed by the Government to perform the functions of the competent authority under this Act, and different persons or authorities may be appointed to perform different functions;

(e) "dentist" means a dentist as defined under the Dentists Act, 1948 (Central Act 16 of 1948);

(f) "dentistry" shall have the meaning assigned to it under the Dentists Act, 1948 (Central Act 16 of 1948);

(g) "emergency" means the situation when the patient requires immediate medical assistance, which, if not provided promptly, may endanger his life or cause permanent damage;

(h) "Government" means the Government of Goa;

(i) "Government doctor" means a medical practitioner or a dentist who is in employment of the Government/Central Government or any Undertaking owned and controlled or managed by such Government;

(j) "inspecting authority" means the authority appointed by the competent authority for the purpose of this Act;

(k) "licence" means a licence granted under the provisions of this Act;

(l) "medicine" means modern scientific medicine in all its branches including surgery and obstetrics and includes the Ayurvedic, Unani, Homoeopathic and Siddha system of medicine; but not including veterinary medicine and surgery;

(m) "medical practitioner" means a person who is qualified and engaged in the practice of modern scientific medicine in any of its branches including Surgery and Obstetrics and includes the Ayurvedic, Unani, Homoeopathic and Siddha system of medicine; but not including Veterinary medicine/ surgery, and registered in the State of Goa under the law in force for the registration of medical practitioners;

(n) "medical treatment" means treatment in medicine or dentistry given by a qualified and registered medical practitioner or dentist;

(o) "Official Gazette" means the Government Gazette;

(p) "private doctor" means a medical practitioner or a dentist who is not a Government doctor;

(q) "prescribed" means prescribed by rules framed under the provisions of this Act;

(r) "register" means a register of medical practitioners prepared and maintained under this Act;

CHAPTER - II

Licence

3. *Doctors to be licenced.*— On or after the appointed day, no doctor shall establish a clinic or hospital or nursing home or practice medicine or dentistry in the State of Goa, except under and in accordance with the terms and conditions of a licence granted under the provisions of this Act and the rules made thereunder:

Provided that the doctor already having a clinic or hospital or nursing home or practicing medicine or dentistry immediately before the appointed day shall also apply for a licence to the competent authority in such form and manner and on payment of such fees as may be prescribed, from time to time, within a period of one year from such day as may be notified by the Government in this behalf, and pending orders thereon, may continue to run such clinic or hospital or nursing home or practice medicine or dentistry subject to the provisions of this Act.

Explanation.— No Government doctor can apply for a licence nor shall he be entitled for such a licence under the provisions of this Act and the rules made thereunder for so long as he remains in Government service.

4. *Standards.*— Every private doctor engaged in private practice shall conform to the minimum standards as may be prescribed from time to time.

5. *Application for licence.*— Every private doctor desiring to establish, run or maintain a clinic or hospital or nursing home or practice medicine or dentistry in the State of Goa shall make an application to the competent authority in such form and manner and on payment of such fees as may be prescribed from time to time.

6. *Disposal of applications.*— (1) On receipt of an application under section 3 or section 5, as the case may be, and after such enquiry as may be deemed necessary, the competent authority may, within a period of 90 days from the date of receipt of the application, by order, grant the licence subject to such conditions as may be prescribed or refuse to grant the licence, and where the licence is refused, the reasons for such refusal shall be recorded in writing.

(2) Every order under sub-section (1) shall be communicated to the applicant in writing by registered post acknowledgement due within 30 days of such order:

Provided that where no such communication is received within a period of 120 days from the date of receipt of the application, the licence shall be deemed to have been granted, and the competent authority shall accordingly issue the licence within a period of 30 days:

Provided further that if the competent authority fails to issue the license, in terms of the preceding proviso within a period of 30 days, the applicant may apply to the Appellate Authority for issue of such licence, and the appellate authority may after making necessary inquiries pass necessary orders for issue of such licence.

7. Factors to be taken into account in disposing of application.— In disposing of an application under section 6, the competent authority shall have regard to the following factors:—

- (a) whether the private doctor is holding the qualifications prescribed by a statute or an enactment or allied laws in any system of medicine/dentistry recognised by the Government/Central Government and is registered with the Medical Council of India / Dental Council of India or the Goa Medical Council/Goa Dental Council or the Goa Board of Indian System of Medicine and Homoeopathy;
- (b) whether the place where private practice is carried on is hygienically suitable and conforms to the minimum standards as prescribed under section 4;
- (c) where the private doctor has more than one place of private practice, whether all such places conform to the norms as specified in clause (b) above;
- (d) such other factors as may be prescribed.

8. Displaying of licence.— (a) The licence issued under this Act shall be displayed at the place of private practice. In case where there is more than one place of practice, photocopies of the licence should be displayed at all such places, which are notified in the licence;

(b) The licence number shall be written/typed/printed on the prescription paper of the private doctor;

(c) In case of clinic or hospital or nursing home, details of licences of all the private doctors who are engaged in practice in the said clinic or hospital or nursing home, shall be displayed prominently on the Notice Board;

(d) No private clinic or hospital or nursing home, shall engage or allow to practice any person other than a qualified medical practitioner nor shall it allow any Government doctor to practice, for monetary consideration or otherwise, in its clinic, hospital or nursing home.

9. Validity of licence.— A licence granted under this Act shall be valid for a period of five years from the date of its issue, provided that the licensee is holding or continues to hold a valid registration from the Goa Medical Council or the Goa Dental Council, or the Goa Board of Indian System of Medicine and Homoeopathy, as the case may be.

10. Renewal of licence.— A licence granted under this Act may be renewed for a further period of five years on an application made in this behalf to the competent authority in the prescribed form and manner and on payment of prescribed fees, within ninety days before the date of expiry of the licence granted under this Act and thereafter on payment of five times such prescribed fees, provided such application is made within six months.

11. Suspension or cancellation of licence.— If on a complaint or information received or otherwise, the competent authority, after holding an inquiry in the matter, is satisfied that a person who has been granted a licence under this Act has committed breach of any of the provisions of this Act and /or the Rules made thereunder or of the conditions of the licence, then the competent authority may suspend the licence for such period as may be deemed fit or cancel the licence.

Provided that no order of suspension or cancellation of a licence under this section shall be made unless the licensee is given an opportunity of being heard in the matter.

12. Appeal.— (1) Any person whose application for a licence under this Act is refused and any person aggrieved by any order made under this Act, may prefer an appeal to the appellate authority.

(2) Every such appeal shall be preferred within ninety days from the date of the order referred to in sub-section (1) in such manner and on payment of such fees as may be prescribed from time to time.

(3) The order of the appellate authority on such appeal shall be final.

CHAPTER - III
Inspection

13. Inspections.— (1) The competent authority or the inspecting authority may at any time, visit a private doctor to verify as to whether the provisions of this Act and the conditions of the licence are being duly observed.

(2) If, as a result of such inspection, any defects or deficiencies are noted, the competent authority or the inspecting authority, as the case may be, may, by order, direct the private doctor to remedy the same within such time as may be specified in the order. Thereupon, the said doctor shall comply with every such direction and submit a compliance report to the competent authority, or the inspecting authority, as the case may be.

14. Default.— (1) If any private doctor willfully obstructs or prevents a free access for inspection, the competent authority, after receiving such information, and after giving the concerned person an opportunity of being heard, may, by order, impose a fine which may extend to rupees two thousand.

(2) The fine imposed shall be paid within a period of fifteen days from the date of the order referred to in sub-section (1). In case of non-payment of fine, the same shall be recovered as arrears of land revenue under the law for the time being in force.

(3) In case of defaults exceeding two in a year, the competent authority may suspend the licence for a maximum period of 90 days.

15. Penalty.— (1) Whoever contravenes any of the provisions of this Act or of the rules made thereunder or the terms and conditions of a licence, shall be liable, on conviction, to payment of fine of rupees five thousand for the first such offence, and fine of rupees ten thousand and/or imprisonment of six months for every subsequent offence.

(2) An offence under this Act shall be cognizable.

16. Cognizance and trial of offence.— No Court inferior to that of Judicial Magistrate First Class shall try any offence under this Act:

Provided that no such Court shall take cognizance of any offence under this Act except on a complaint made by the competent authority or any officer authorized by it, either generally or specially in writing.

17. Indemnity.— No suit, prosecution or other legal proceedings shall lie against the

Government or any Officer of the Government in respect of anything which is, in good faith done or intended to be done by or under this Act.

18. Rules.— (1) The Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the minimum standards referred to in section 4;

(b) the form and manner of application and fees under sections 3 and 5;

(c) conditions subject to which licence may be granted under section 6;

(d) other factors to be taken into account under section 7;

(e) the form and manner of application and fees under section 10;

(f) the manner of preferring appeal and fees for appeal under section 12;

(g) any other matter required to be prescribed.

19. Exemptions.— (1) In case of emergency, the nearest private doctor shall be bound to attend the patient irrespective of the area/place for which the licence is granted. Likewise, a Government doctor shall not refuse to attend the patient in such an emergency on the ground that he is not allowed to treat the patient at places other than Government Hospitals. Refusal to attend in emergency shall be an offence punishable under section 15 of this Act.

(2) A medical practitioner or a dentist visiting Goa for consultation, diagnostic and surgical procedures in a clinic or a hospital or a nursing home, shall be exempt from the provisions of this Act.

(3) The Government may, if it deems fit to do so in public interest, by order, exempt any special class or category of doctors from registration under the provisions of this Act.

Secretariat Annexe, L. S. SHETTY,
Panaji – Goa. Secretary to the
Dated: 5-4-2004. Government of Goa
Law Department (Legal Affairs).